

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DAN CERJANEC, RODRIGO BRAVO,
MARK MODLIN, and WILLIAM
WINFREY, on behalf of themselves and all
others similarly situated;

Plaintiffs,

v.

FCA US, LLC,

Defendant.

Case No. 17-10619
Honorable Laurie J. Michelson

**ORDER GRANTING IN PART AND DENYING IN PART DEFENDANT'S
MOTION TO STRIKE [80]**

Named Plaintiffs are current and former employees of Fiat Chrysler Automobiles (FCA). They allege that an employee-evaluation policy has a disparate impact on employees aged 55 and older. As a result of this policy, Plaintiffs, and others like them, allegedly received lower evaluation scores which resulted in missed career advancements, bonuses, placement on probation, and, in some cases, termination. Plaintiffs additionally bring individual claims of intentional age discrimination.

Plaintiffs now move to conditionally certify the ADEA collective action. (ECF No. 41.) The motion to conditionally certify is fully briefed (ECF Nos. 41, 66, 78) and the Court held a hearing on the motion on June 7, 2019.

FCA also moves to strike all reference to certain documents it alleges that Marlin Williams, a former Plaintiff in a similar case brought by the same attorneys involving African-American employees, improperly took documents after she resigned from FCA. (ECF No. 80.) It also seeks to preclude Plaintiffs from relying on the information contained in these documents, to require

Plaintiffs' counsel to provide an accounting and return of all documents Marlin Williams shared with Plaintiffs' counsel, and to require Plaintiffs' counsel to provide an accounting of every person with whom they shared these documents and information. (*Id.*)

This motion is also fully briefed (ECF No. 80, 81, 82) and the Court held a hearing on the motion on June 7, 2019.

IT IS HEREBY ORDERED, for the reasons set forth more fully on the record in the Court's oral ruling, that:

- Defendant's motion to strike (ECF No. 80) is GRANTED IN PART AND DENIED

IN PART:

- Plaintiffs shall return all materials to FCA that have not otherwise been turned over that are alleged to be confidential, proprietary, or contain trade secrets.
- Plaintiffs are also to provide an accounting to FCA identifying everyone with whom Plaintiffs have shared information contained in the documents as well as the documents themselves.
- Nothing will be stricken from the complaint.

IT IS FURTHER ORDERED THAT Plaintiffs have until June 17, 2019 to submit supplemental briefing to address the ADEA statute of limitations issues raised in the hearing with respect to the motion for conditional certification. The briefing shall be no more than five pages and citations should not be in footnotes. Defendant shall submit any response—with the same page and footnote limitations—within five days of Plaintiffs' submission.

s/Laurie J. Michelson
LAURIE J. MICHELSON
UNITED STATES DISTRICT JUDGE

Date: June 10, 2019

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing document was served on the attorneys and/or parties of record by electronic means or U.S. Mail on June 10, 2019.

s/William Barkholz
Case Manager to
Honorable Laurie J. Michelson